THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.3254 of 2007

Dated:19-09-2007

Between:
N.Venkata Krishna Rao. .. Petitioner.

And

The District Collector,
Ongole, Prakasam District
and another. .. Respondents.

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.3254 of 2007

ORDER:

Heard Sri K.Chidambaram, learned counsel representing the writ petitioner, and the learned Government Pleader for Civil Supplies.

2. This Court issued *Rule nisi* on 22.02.2007. A counter affidavit was filed on behalf of the respondents. A reply affidavit also was filed. The respective counsel on record made certain submissions in the light of the respective pleadings of the parties and the respective stands taken by the parties.

3. The writ petition is filed seeking a writ of Mandamus declaring the impugned proceedings of endorsement of the 2nd respondent in R.C.C.No. 55/2006, dated 03.01.2007, refusing to release the petitioner's IRIS ration card as illegal and arbitrary, and consequently by setting aside the same direct to release the IRIS laminated ration card prepared under counter foil dated, 18.08.2006, to the petitioner forthwith in the interest of justice.

4. Sri N.Venkata Krishna Rao, the writ petitioner, had stated in the affidavit filed in support of the writ petition that he has been doing Archakatvam at Devarapalem Sivalayam since 20 years, and the Government of Andhra Pradesh proposed to issue ration cards for supply of essential commodities, for which he also applied to the 2nd respondent on 12.08.2006 as he is having a pacca house bearing

No.1-99 at Devarapalem, Prakasam District, and thereafter he was called to D.P.L.P. counter for taking photograph with his family members being five in number on 18.08.2006, and his family photograph was taken and his ration card was made ready with IRIS Technology.

It is also stated that since the Government proposed to issue ration cards as a replacement with new cards and also to the freshers, the petitioner applied for ration card as a fresher. It is also averred that due to various political fractions in the village of the petitioner, the Committee of the temple removed him as Archaka. It is also further averred that some people tried to occupy the house of the petitioner by use of force, as such, he was constrained to file O.S.No.432 of 2005 and also had obtained interim injunction in I.A.No.482 of 2005 on 21.04.2005, which is pending on the file of IV Additional Junior Civil Judge, Ongole, Prakasam District.

Further, it is averred in the affidavit filed in support of the writ petition that when enumeration has taken place in the village of the petitioner, in the absence of the petitioner, his name was wrongly written as Ramanaiah and in spite of his request to change the said name, till date, the same was not altered.

It is also stated that even though the family ration card of the petitioner was made ready by the 2nd respondent, at the instance of the dealer, the Mandal Office Superintendent is harassing him without issuing the card, and that the efforts of the petitioner before the Village Secretary had become futile. For obvious reasons, the 2nd respondent is withholding the ration card of the petitioner. Being vexed with the adamant attitude of the 2nd respondent, the petitioner approached R1,

the District Collector, Ongole on 29.05.2006, whereby the 1st respondent endorsed on the representation made by the petitioner to approach the 2nd respondent.

It is also stated that the petitioner obtained the counterfoil of his H.No.1-99, dated 12.08.2006, and the declaration, dated 18.08.2006. It is also stated that the petitioner passed the relevant examinations as Archaka and resident of Devarapalem. At no point of time, the petitioner had altered his name as Ramanaiah. It is only due to mistake, the petitioner's name was mentioned as Ramanaiah in the voters list. It is further stated that the 2nd respondent to some how deny the ration card to the petitioner, had issued the impugned proceedings of endorsement vide R.C.C.No.55/2006 dated 03.01.2007 stating that the petitioner had not surrendered his earlier ration card and further stated that the petitioner's name was mentioned as Ramanaiah in votors list and since he had done his job with other name, the same was proposed to be removed and enquiry is pending and till then, ration card cannot be issued to the petitioner.

It is further stated by the petitioner that the rejection order made by the Mandal Revenue Officer is wholly illegal and against the principles of natural justice and that the 2nd respondent can never reject his case for release of his ration card without stating when he was issued ration card earlier.

Further, the petitioner stated that the order that till the temple committee enquiry regarding his job is over, no card would be given is violative of Article 21 of the Constitution of India, and under these circumstances, he approached this Court by filing the present writ petition.

5. In the counter affidavit filed by the respondents, it is stated in para 2 that it is not correct to state that the petitioner has been doing Archakatvam since 20 years. As per the orders of the Executive Officer, Temple of Devarapalem in Rc.NIL/99, dated 01.08.1999, the petitioner has been appointed as Archaka of two temples from 02.07.1999 and that he has put in seven years. It is also submitted that it is true that the Government of Andhra Pradesh proposed to issue new ration cards for supply of Essential Commodities and the programme was started in Devarapalem Village of Chimakurthy Mandal in the month of August, 2006. As contended by the petitioner that he was having pucca house bearing No.1-99 is not correct. As per the information available and as per the records and Ration card, Sri Nudurupati Ramanaiah and his family members are residing in D.No.1-99 having Household Card No.294448 with four members.

It is also stated in para 3 of the counter affidavit that the Government proposed to issue ration cards as a replacement with new cards and also to the freshers. In this connection, Smt.Nudurupati Lalithamma, wife of the petitioner has given her declaration No.070839 that they are having White Ration Card No.294448 at D.No.1-99 of Devarapalem village with four family members. On verification, it was found that Sri Nudurupati Ramanaiah is having ration card with D.No.1-99. It was also found in the Electoral Roll that the name of Sri Nudurupati Ramanaiah is enrolled in the voters' list of Devarapalem village with Sl.No.163 of P.S.No.4 of Devarapalem. The contention of the petitioner that his name was wrongly noted as Ramanaiah cannot be accepted as he has never filed for correction of his name in the ration card and also never filed for correction of name in the voters list though revision of Electoral Rolls is being attended every year.

It is further submitted that the Ration card of the petitioner is made ready and at the time of issuing the same to the petitioner, re-verification was made, whereby it was found that there is no Sri Nudurupati Venkata Krishna Rao at D.No.1-99 of Devarapalem village and the name of the card holder is Ramanaiah with the same family members and hence the issue of Ration Card to the petitioner was stopped in view of the above fact.

It is further stated in para 4 of the counter affidavit that the counterfoil has been issued on 18.08.2006 to Smt.Nudurupati Lalithamma, who is the declarant of Household information Sheet and she has declared her husband's name as Sri Nudurupati Venkata Krishna Rao, R/o.D.No.1-99. On verification of Key Register of the F.P.Shop, the name of declarant's husband was found as Nudurupati Ramanaiah and also in the voters list Special Summary Revision 2007, the name of the declarant's husband was found as Nudurupati Ramanaiah, R/o.No.1-99. It is further submitted that the family had a existing Ration Card bearing No.294448 in the name of Sri Nudurupati Ramanaiah, s/o. Venkata Subbaiah and the family members names are the same and the family is taking E.Cs with the existing card. At no point of time, the petitioner raised any objection regarding his name. The Government of Andhra Pradesh has now launched the programme to issue new Ration Cards by replacing the existing Ration Card holders after obtaining old card and new cards are being issued through IRIS Technology from Designed Photography location. The applicant Sri Nudurupati Ramanaiah has surrendered his existing ration card bearing No.294448 available with him. In view of the wrong declaration of the petitioner's name, the respondents' authorities have stopped the proposal of issuing the ration card to the

petitioner since it has to be decided as to the correctness of the declaration and that the name of the petitioner.

It is submitted that the contention of the petitioner that he has filed declaration for issue of Ration card for the first time cannot be accepted, since the declaration form was signed by his wife and not by him.

Another contention of the petitioner that no enquiry was conducted with regard to the issuance of the ration card in the name of Ramanaiah is also incorrect. It is submitted that a detailed enquiry was made before rejection of the issue of card in the said name by verifying key register relating to the issue of E.Cs of the F.P. shop concerned, the Electoral Roll and also the School Admission Register of the petitioner's daughter viz., Lakshmi Parvathi in SBKRS ZPH School, Devarapalem village, wherein her father's name was mentioned as Ramanaiah. The other contentions of the petitioner are also not tenable.

6. A reply affidavit also had been filed by the petitioner specifically denying several of the allegations made in the counter affidavit. It is stated that it is absolutely false to say that the petitioner is not the owner of house bearing D.No.1-99, and that the 2nd respondent has stated that as per the information available, Sri Nudurupati Ramanaiah and his family members are residing in D.No.1-99 having household card No.294448 with four members, but he failed to mention in whose name the ration card No.294448 was issued. It is further stated that no person by name N.Ramanaiah was there, however, in the voters list, the petitioner's name was wrongly shown as Ramanaiah instead of Venkata Krishna Rao. The petitioner further stated that his educational

certificates show his name as Venkata Krishna Rao.

The petitioner further submits that his father-in-law and the family members of his father-in-law used to reside in his house around 1980-1990 and the revenue authorities have issued ration card in favour of his father-in-law Sri N.Sadhasivaiah and his family members. It is also stated that his wife's name was also included as family member in the ration card given to his father-in-law and the same was deleted subsequently. It is also stated that his father-in-law and mother-in-law are no more and the ration card given to them was cancelled long back in view of their death. The petitioner has further taken a specific stand that has been residing in the said house since 1993 onwards and no ration card has been issued in his favour.

7. In the light of the respective stands taken by the parties, this appears to be a peculiar case where the writ petitioner approached this Court praying for specific directions for issuance of a ration card.

8. In the light of the specific stand taken by the writ petitioner, the stand taken in the counter affidavit can be said to be an unsustainable stand. For certain reasons, it appears, the respondents are denying the issuance of the ration card in favour of the petitioner. It is no doubt true that bona fides or otherwise of the petitioner's claim may have to be suitably verified. But, however, in the facts and circumstances of the case, this Court is of the opinion that the stand taken by the respondents cannot be said to be a sustainable stand.

9. In the light of the aforementioned reasons, the writ petition is hereby allowed with costs.

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(P.S.NARAYANA,J)

Dt.19.09.2007
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